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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 30TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

Writ Petition No.15008/1994

1. Deepak Bandu Magdum
minor, Guardian
Smt. Kundanabai,
W/o Nemisha Hagare
R/o Khadaklat,
now at Kothali,
Tal: Shirol,
District: Kolhapur.

2. Shri Annasaheb Nemisha
Hagare, major,
Occ: Agriculture,
R/o Khadaklat,
now at Kothali,
Taluk: Shirol,
District: Kolhapur.

.. Petitioners

(By Sri B.S.Kamate,
Advocate)

Vs.

1. The Asst. Commissioner,
Chikodi Sub-Division,
District: Belgaum.

2. The Tahsildar,
Chikodi,
District: Belgaum.

3. Smt. Shrimanti
W/o Bandu Magdum,
major, Occ: Household,
R/o Khadaklat,
Taluk: Chikodi,
Dist: Belgaum.

u/g

4. Kumari Muradevi Bandu.
Magdum, major,
R/o Khadaklat,
Taluk: Chikodi.
Dist: Belgaum.

5. Kumari Srievi Bandu
Magdum, major,
R/o Khadaklat,
Taluk: Chikodi,
Dist: Belgaum.

6. Kumari Vijaya Bandu
Magdum, major,
R/o Khadaklat,
Taluk: Chikodi,
Dist: Belgaum.

.. Respondents

(By Sri Ravi S. Balekai,
Adv. for Respondents 3-6;
Sri Huleppa Heroor,
Govt. Pleader for R-1 & R-2)

Writ Petition filed under Articles 226 and 227 of the Constitution of India with an affidavit praying for the quashing of the order dated 14-2-1994 passed by the first respondent vide Annexure-D, etc.

This petition coming on for hearing before Court this day, the Court made the following:

O R D E R

Sri Huleppa Heroor, learned Government Pleader, is directed to take notice for respondents 1 and 2.

2. In this petition, the petitioner has called in question the order of the Assistant Commissioner dated 14th of February 1994, a copy of which has been produced as Annexure-

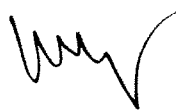
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D, wherein he has rejected the application of the petitioner on the ground that there is a delay of 12 days caused in filing the appeal.

3. Sri B.S.Kamate, learned Counsel for the petitioners, submitted that if the period taken by the petitioner to obtain the certified copy of the order passed by the second respondent is taken into account, there is no delay on the part of the petitioner in filing the appeal.

4. Having regard to the facts and circumstances of the case, I am of the view that it would be in the interest of justice to set aside the order impugned with liberty reserved to the petitioners to file an application for condonation of delay, if any, in filing the appeal.

5. In the light of the above conclusion, the order Annexure-D dated 14th of February is hereby quashed. The petitioners are given 8 weeks' time from today to file the application for condonation of delay caused in filing the appeal before the first



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respondent.

6. The first respondent shall consider the explanation given by the petitioners praying for condonation of delay and pass appropriate orders on merits. If the first respondent considers that the petitioners have made out sufficient cause for condonation of delay, he shall decide the appeal of the petitioners on merits and dispose of the same as expeditiously as possible and at any event of the matter, not later than six months from the date of receipt of a copy of this order.

7. In terms stated above, this petition is allowed and disposed of. Rule issued is made absolute.

8. Sri Huleppa Heroor, learned Government Pleader, is permitted to file his memo of appearance within four weeks from today.

Sd/-
JUDGE

ANB.

